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**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

IN RE INCRETIN-BASED  
THERAPIES PRODUCTS LIABILITY  
LITIGATION

*As to All Related and Member Cases*

Case No. 13-md-2452-AJB (MDD)

**JOINT MOTION FOR  
MODIFICATION OF  
SCHEDULING ORDER**

Judge: Hon. Anthony J. Battaglia  
Magistrate: Hon. Mitchell D. Dembin

The parties submit this Joint Motion for Modification of Scheduling Order and state the following in support:

1. The Court entered a scheduling order for this action on July 1, 2014. *See* ECF No. 504. That order calls for the disclosure of Plaintiffs' experts and reports by November 17, 2014; the disclosure of Defendants' experts and reports by December

1 17, 2014; the submission of Plaintiffs' rebuttal reports by January 30, 2015; and the  
2 completion of expert depositions by March 6, 2015. *Id.* at 2.

3 2. The parties have conferred in good faith and, in light of the progress of  
4 the case, agree that an extension of the schedule as to general causation is warranted to  
5 afford the parties adequate time to complete discovery regarding that issue.

6 3. In light of the Court's statements that the preemption issue should be  
7 ready for adjudication in advance of the general causation issue, this schedule would  
8 permit Defendants to submit a motion for summary judgment based on preemption in  
9 early 2015, prior to the completion of expert discovery on general causation. *See, e.g.*,  
10 ECF No. 504, at 2 ("Following a decision on preemption, summary judgment will be  
11 scheduled on the issue of general causation if necessary."); ECF No. 567, at 3 ("The  
12 Parties are encouraged to focus their efforts on Preemption first, as the Court will  
13 entertain a motion for summary judgment based on Preemption prior to one on general  
14 causation.").

15 4. Accordingly, the Parties now jointly move this Court to adopt the  
16 following revised schedule:

17 a. **As to Preemption:**

- 18 i. *November 17, 2014*—Each party must notify the other parties, by  
19 this date, of the experts (and their respective fields) for whom they  
20 intend to submit expert reports on preemption. If a party decides  
21 to not submit an expert report, they will notify the other parties of  
22 that decision on this date.
- 23 ii. *December 8, 2014*—The parties must file and serve any expert  
24 reports relating to preemption by this date.
- 25 iii. *January 16, 2015*—The parties must file and serve any rebuttal  
26 expert reports relating to preemption by this date. In the event a  
27 party decided to not submit an expert report on December 8, any  
28

1 rebuttal expert reports shall be limited to rebutting points made by  
2 the opposing parties' experts.

3 iv. At a future conference, the Court will set a schedule for any expert  
4 discovery and for hearing and briefing any summary judgment  
5 motion on preemption.

6 **b. As to General Causation:**

7 i. *February 17, 2015*—Plaintiffs' disclosure of experts and their  
8 reports as to general causation must be filed and served by this  
9 date.

10 ii. *March 20, 2015*—Defendants' disclosure of experts and their  
11 reports as to general causation must be filed and served by this  
12 date.

13 iii. *March 30, 2015*—Plaintiffs' rebuttal reports as to general  
14 causation must be filed and served by this date.

15 iv. *May 15, 2015*—All expert discovery as to general causation must  
16 be completed by this date.

17 5. A proposed order will be e-mailed to chambers in accordance with the  
18 Court's Standing Order for Civil Cases.

19 **Respectfully submitted:**

20 Dated: October 22, 2014

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26 **SIGNATURE ATTESTATION**

27 I hereby certify that authorization for the filing of this document has been  
28 obtained from each of the other signatories shown above and that all signatories  
concur in the filing's content.

s/ Vickie E. Turner

VICKIE E. TURNER